IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 28TH NOVEMBER 2006 / 7TH AGRAHAYANA 1928

WP(C).No. 22465 of 2006(Y)

PETITIONER:

A. JYOTHI,
RADIOGRAPHER GRADE-I, MEDICAL COLLEGE,KOTTAYAM.

BY ADV. SRI.P.RAVINDRAN
SRI.ANIL SIVARAMAN

RESPONDENTS:

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1. THE DIRECTOR OF MEDICAL EDUCATION,
THIRUVANANTHAPURAM.

2. ADMINISTRATIVE OFFICER,
MEDICAL COLLEGE, KOTTAYAM.

3. STATE OF KERALA,
REP. BY ITS SECRETARY, HEALTH AND
FAMILY WELFARE DEPARTMENT, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVT. PLEADER (SHRI T.T. MUHAMMED)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P.(C) NO.22465 OF 2006 Y

PETITIONER'S EXHIBITS:

EXT.P1 **TRUE COPY OF THE ORDER NO.E2-12034-2006 C.A.E. DATED 3.7.2006.**

EXT.P2 **TRUE COPY OF THE ORDER DATED 19.7.2006.**

EXT.P3 **TRUE COPY OF THE ORDER DATED 19.8.2006.**

EXT.P4 **TRUE COPY OF THE RELEVANT EXTRACT OF THE PAY REVISION ORDER.**

// TRUE COPY//

PS TO JUDGE

K. M. JOSEPH, J.

W.P.C NO. 22465 OF 2006 Y

Dated this the 28th November, 2006

JUDGMENT

Petitioner challenges Ext.P3. Case of petitioner, in brief, is as follows:

Petitioner was appointed as Radiographer Gr.II in the Medical Education Department. She was appointed on 1.3.1989. She was promoted as Radiographer Gr. I. On 17.11.1994. She completed eight years of service in the post of Radiographer Gr.I in November, 2002. She is entitled to promotion as Radiographer (teaching grade) in the scale of pay of Rs.6,500 - 10,550 from 8.11.2002. On representations filed, ultimately the third respondent passed Ext.P1 order granting Higher Grade. Consequential orders were passed vide Ext.P2. By Ext.P3, however, Ext.P1 order is seen cancelled stating that on further verification, it is found that the petitioner has not completed eighteen years of service which she will complete only in 2007.

2. One of the contentions taken by learned counsel for petitioner is that Ext.P3 is issued in violation of the principles of natural justice. The other principal contention of petitioner is that petitioner is entitled to higher grade on completion of eight years service in the first promoted post. Learned Government Pleader would submit that, in fact, petitioner had not completed eight years service in the promoted post. But, such a reason is not seen stated in Ext.P3 and what is stated is that petitioner will be eligible only on completion of eighteen years service. I feel that when a benefit is granted to a party vide Ext.P1 and it is followed by issuance of Ext.P2, it became a right in his favour and if that right is to be taken away, petitioner should have been put on notice and an opportunity of hearing should have been given. In such circumstances, I feel that Ext.P3 cannot be sustained for the only reason that it is issued without either notice or hearing her. I leave open the contentions of the parties. Accordingly, Ext.P3 is quashed and a fresh decision will be taken by first respondent in the matter in accordance

with law, after hearing petitioner, within a period of two months from the date of receipt of a copy of this Judgment.

The Writ Petition is disposed of as above.

K. M. JOSEPH, JUDGE

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